UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

FILED
08 APR -4 PM 2:39
U.S. DISTRICT COURT
W.D.N.Y.-BUFFALO

Ian Goolsby, D.I.N.#08-B-0632
(Plaintiff)

v.

1. City of Elmira
2. Elmira Police Department
3. Elmira Police Officer: Mr. Oaks
4. Elmira Police Officer: Mr. Adams
5. Elmira Police Officer: Mr. Marrone
6. Elmira Police Officer: John Doe No.1
7. Elmira Police Officer: John Doe No.2
8. Elmira Police Officer: John Doe No.3
9. Elmira Police Officer: John Doe No.4

(Defendant(s)) et.,al

COMPLAINT

Jury Trial Demanded

No.07-CV-0631A

PLAINTIFF'S FIRST AMENDED COMPLAINT

Plaintiff Ian Goolsby #08-B-0632, Pro-se, for his first amended complaint against defendants The City of Elmira, Elmira Police Department, Police Officer: Mr. Oaks, Police Officer: Mr. Adams, Police Officer: Marrone, Police Officer: John Doe No.1, Police Officer: John Doe No.2, Police Officer: John Doe No.3, and Police Officer: John Doe No.4 et., al, alleges as follows:

STATEMENT OF JURISDICTION

1. This is a Civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States.
2. This Action is brought pursuant to 42 U.S.C.§1983. The court has Jurisdiction over the action pursuant to 28 U.S.C.§§1331, 1343(3) and (4), and 2201.

PARTIES TO THIS ACTION

3.Plaintiff Pro-se Ian Goolsby #08-B-0632,currently confined at the Collins Correctional Facility located at P.O. BOX 340.,Collins,N.Y. 14034-0340.

4.Defendant The City of Elmira is a Municipality within the County of Chemung which at all times relevant hereto has resided within the State of New York.

5.Defendant The Elmira Police Department located within the City of Elmira of which is an entity of the City of Elmira of which it resides within the State of New York County of Chemung is also a Municipal entity.

6.Defendant Elmira Police Officer:Mr.Oaks is a Police Officer of the Elmira Police Department located at 317 East Church Street.,Elmira, New York 14901-2790 of which is within the County of Chemung State of New York.

7.Defendant Elmira Police Officer:Mr.Adams is a Police Officer of the Elmira Police Department located at 317 East Church Street.,Elmira, New York 14901-2790 of which is within the County of Chemung State of New York.

8.Defendant Elmira Police Officer:Mr.Marrone is a Police Officer of the Elmira Police Department located at317 East Church Street.,Elmira, New York 14901-2790 of which is within the County of Chemung State of New York.

9.Defendant Elmira Police Officer:John Doe No.1 is a Police Officer of the Elmira Police Department located at 317 East Church Street.,Elmira, New York 14901-2790 of which is within the County of Chemung State of New York.

PARTIES TO THE ACTION CONTINUED

10.Defendant Elmira Police Officer:John Doe No.2 is a Police Officer of the Elmira Police Department located at 317 East Church Street.,Elmira, New York 14901-2790 of which is within the County of Chemung State of New York.

11.Defendant Elmira Police Officer:John Doe No.3 is a Police Officer of the Elmira Police Department located at 317 East Church Street.,Elmira, New York 14901-2790 of which is within the County of Chemung State of New York.

12.Defendant Elmira Police Officer:John Doe No.4 is a Police Officer of the Elmira Police Department located at 317 East Church Street.,Elmira, New York 14901-2790 of which is within the County of Chemung State of New York.

PREVIOUS LAWSUITS BY PLAINTIFF

13.Plaintiff has filed no other lawsuits dealing with the same facts involved in this action or otherwise relating to his imprisonment and or any other matter.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

14. Administrative remedies are not or were not available ,and or are not applicable to the above captioned action.

FACTS

15. On or about February 24,2007,I the Plaintiff Ian Goolsby #08-B-0632 was driving a vehicle that I had rented from a rental agency,I was driving within the City of Elmira at which time a traffic stop was conducted by defendant's Police Officers Oaks,and Adams while driving an unmarked Police vehicle,wherefore the traffic stop was conducted after I had parked the rental car wherefore the two defendants Officer Oaks,and Adams had approached the vehicle and began to question me about my drivers license and registration upon rendering my drivers license and registration the Officers informed me that I had a misdemenor warrant for my arrest.

16. After I was arrested for the misdemenor warrant for (Criminal-Impersonation in the 2°) I had posted bail and was released from custody once I had returned to court the the misdemenor charge was dismissed.

17. Wherefore after I was arrested for the warrant the defendant Police Officers John Doe No's. 1,2,3,and 4 proceeded to search my vehicle without my permission,and without advising me of my miranda rights wherefore the vehicle was parked in front of my residense located at (1201 Lake-Street apt.#3.,Elmira,N.Y. 14901) at this time the Officers continued to search the vehicle of which wasnot ilegally parked nor obstructing traffic in any way what so ever,but after conducting a search of the vehicle the officers decided to have the vehicle towed to a Police impound yard.

FACTS CONTINUED

18.Furthermore once plaintiff was brought to the police station for booking purposes the defendant Police Officer Morrone accepted and vouchered plaintiffs currency and fowarded it to the (Drug Enforcement Unit) wherefore an arrest was at no given time on the above mentioned date was made for the sale of a controled substance,nor the posession of a controled substance.

19.Although plaintiff was arrested on or about March 30,2007 and convicted upon a plea of guilty to an indictment for Criminal Sale of a Controled Substance in the 3° of which is irelevant to the matter within this action.

20.Wherefore Plaintiff's Rights Protected by the Fourth Amendment to the United States Constitution were violated when defendant Police Officers John Doe No's.1,2,3,and 4 Proceeded to search and seaze plaintiffs vehicle and defendant Police Officer Morrone proceeded to deprive the plaintiff of his property consisting of the U.S.Currency for reasons not known nor related to the arrest for a misdemenor warrant.

21.Wherefore Plaintiffs Rights Protected by the Fourteenth Amendment of the United States Constitution were violated when defendant Police Officers Oaks,and Adams proceeded to use a tactic very well known to the City of Elmira and its Police Department known as racial profiling of which is in violation of the Fourteenth Amendments Equal Protection Of the Law Claus.

FACTS CONTINUED

22.Wherefore Plaintiffs right Protected by the Fourteenth Amendments Due Process of Law of the United States Constitution were violated by all of the above mentioned defendants when all of the defendants acted in a manner of which was known by the defendants that by acting in such a manner would deprive the plaintiff of his right to Due Process of Law.

23.Wherefore the actions taken by the above defendants such as the unreasonable search and seizures of plaintiffs vehicle,currency,and the damaging of other personal property was done by the defendants acting Under Color of State Law .

24. Furthermore the actions of Defendant Police Officers Oaks,and Adams Racial Profiling the Plaintiff While Acting Under Color of State Law proceeded to conduct a traffic stop for no apparent reason wherefore no summonses were issued for any traffic infractions and or any violations of State traffic and or vehicle laws but were in violation of the Fourteenth Amendment of the U.S.Constitution.

25.Wherefore the actions of all of the defendants are known policies and procedures of the City of Elmira,as well as the Policies and Procedures of the Elmira Police Department.

FACTS CONTINUED

26. Furthermore not only did the above mentioned defendants violate plaintiffs Rights Protected by the U.S.Constitution,but also violated additional Rights protected by the Constitution of this State such as the following:

(a)Art.1-§11[Equal Protection of laws]

(b)Art.1-§12[Unreasonable Searches and Seizures]

(c)Art.1-§6 [No person shall be deprived of life,liberty or property without Due Process of law.]

These are the fundamental Rights Protected by the Constitution of the State of New York of which were violated by the above named defendants while acting under color of state law.

27. Wherefore this action does not fit into the description of Res-Judicata nor Collateral estoppel,but is within the guidelines of Res-Nova.

WHEREFORE, Ian Goolsby #08-B-0632 Prays for judgment in his favor and Damages in his favor against all defendants in an amount sufficient to compensate him for the Rights and Privileges that he was Deprived of that are guaranteed by the Constitution of the UNITED STATES AND OF THE STATE OF NEW YORK along with expenses incured for damaged and missing property due to the deliberate indifference and intentional misconduct of defendants,but in no event less than $150000.oo,together with his attorneys' fees and costs,and such additional relief as the Court may deem just and proper.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

Executed on 4 / 1 /2008

Sworn to before me

this 1 day of APRIL ,2008

NOTARY PUBLIC

DAVID R. COLLINS
Notary Public, State of New York
No. 01CO6032969
Qualified in Orleans County
Commission Expires November 8, 20 09

Respectfully Submitted

x

signature

Ian Goolsby #08-B-0632

-Plaintiff/Pro-se-

Collins Corr.Facility

P.O. Box 340

Collins,N.Y. 14034-0340